IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WP(C).No. 34548 of 2007(S)

OA.529/2005 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONER:

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS:

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR & K.P.BALACHANDRAN, JJ.

Writ Petition (C) No.34548 of 2007-S

Judgment

Balakrishnan Nair, J.

The petitioner retired from service as Assistant Divisional Mechanical Engineer on 30.04.2004. It was a Group B post in the scale of pay of Rs.7500-12000/-. Pursuant to the recommendation of the 5th Pay Commission, a new scale of Rs.8000-13500/- was introduced for 80% of the Group B posts with effect from 25.04.2003. Those who were having three years' experience in the scale of pay of Rs.7500-12000/- were eligible to be considered for placement in the higher grade. The petitioner, being one of the eligible hands, was also considered along with others. But, he was not found fit by the selection committee. Feeling aggrieved by the said decision, the petitioner filed OA No.529/05, a copy of which is produced as Ext.P2. In paragraph IV(5) of the said OA, the petitioner claimed that his service records would show that his performance has been rated as very good for the years 1999-2000, 2000-01 and 2001-02. According to him, there were no adverse remarks against him. If there were any, he would have been informed of them.

2. The respondents filed a reply statement, a copy of which is produced as Ext.P3. In the said reply statement, the above claim of the petitioner regarding his performance rating in relation to three years, was specifically denied. But the petitioner has not filed any rejoinder, disputing the said statement. The Tribunal considered the matter and dismissed the application by Ext.P4 order. It was noticed that the upgradation is not automatic and the petitioner has to undergo a selection process. He was, in fact, considered and the selection committee found that he was not fit for grant of higher grade. The Tribunal, taking note of the fact that there were no allegations of mala fides or prejudice against the selection committee, declined to interfere with the impugned non-selection of the petitioner. This Writ Petition is filed, challenging Ext.P4.

3. Heard the learned counsel for the petitioner. According to him, his rating in the annual confidential reports for the aforementioned three years are very good. If the respondents had a case to the contrary, they should have produced the annual confidential reports before the Tribunal. As long as there are no allegations of mala fides against the selection committee, we feel that the said contention cannot be accepted. We also noticed that the petitioner did

not file any rejoinder to the reply statement filed by the respondents. Therefore, it was unnecessary to call for the records. We find no reason to doubt the correctness of the assertion made by the respondents in their reply statement. We fully agree with the reasons and conclusions of the Tribunal. In the result, the Writ Petition fails and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

22.11.2007 **K.P.BALACHANDRAN, JUDGE**

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